

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/706,112 <b>Examiner</b>	SWARTZ, JEROME <b>Art Unit</b>	
	Jared J. Fureman	2876	

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the telephone interview on 5/14/2003.
  2.  The allowed claim(s) is/are 20-25.
  3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
  4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a)  All
    - b)  Some\*
    - c)  None
 of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5.  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
    - (a)  The translation of the foreign language provisional application has been received.
  6.  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8.  CORRECTED DRAWINGS must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No. \_\_\_\_\_.
  - (b)  including changes required by the proposed drawing correction filed 03 November 2000, which has been approved by the Examiner.
  - (c)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.**

9.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>23</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____.              | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                     |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance    |
|  | 9 <input type="checkbox"/> Other   |

### **DETAILED ACTION**

Receipt is acknowledged of the change of address, filed on 12/4/2002, and the amendment filed on 5/5/2003, both of which have been entered in the file. Claims 20-25 are pending.

#### ***Examiner's amendment***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. G. Roger Lee (28,963) on 5/14/2003.

The application has been amended as follows:

#### **In the claims:**

Claim 20:

~~Line 10, "the" (first occurrence) has been replaced with --a--.~~

~~Line 11, "the" (first occurrence) has been replaced with --an--, and "the" (second occurrence) has been replaced with --a--.~~

#### ***Allowable Subject Matter***

2. Claims 20-25 have been allowed over the prior art of record.
3. The following is an examiner's statement of reasons for allowance: The prior art of record, taken alone or in combination, fails to teach or fairly suggest: A hand-held apparatus for writing optical indicia on a medium, the apparatus comprising: a housing

configured to be hand held while disconnected from the medium; a light source connected to the housing for generating a light beam suited for writing the optical indicia on the medium; a scanning element connected to the housing under control of the CPU that directs the light beam at the medium in a pattern prescribed by the CPU; wherein a position and orientation of the light beam relative to the medium is dependent on an orientation in which a user holds the housing, which is disconnected from the medium, in combination with the other claimed limitations as set forth in the claims.

Takahashi, deceased (US 5,057,943, previously cited) teaches an apparatus for writing optical indicia on a medium (1). The apparatus includes: a central processing unit (CPU) (A/O controller 6) for controlling the apparatus, a light source (laser 2) for generating a light beam (laser beam) suited for writing the optical indicia on the medium, a scanning element (A/O modulator 5 and polygon mirror 70) under control of the CPU that directs the light beam at the medium in a pattern prescribed by the CPU, the light beam (laser beam) is pulsed by the A/O modulator 5 (see figures 1, 4, column 1 lines 6-12, column 2 lines 43-66, and column 3 line 22 - column 4 line 9).

Takahashi fails to teach a housing configured to be hand held while disconnected from the medium, wherein a position and orientation of the light beam relative to the medium is dependent on an orientation in which a user holds the housing, which is disconnected from the medium. Furthermore, Takahashi teaches holding the medium (1) between rollers (11 and 12) while writing on the medium (see column 3 line 59 - column 4 line 9).

Christopher et al (US 5,227,617, previously cited) teaches a hand held apparatus (10) for writing optical indicia on a medium (roll R). The apparatus includes: a housing (handle 20 and housing 22) configured to be hand held (see figures 1, 2, 4, column 3 line 60 - column 4 line 29, column 5 lines 51-57, and column 6 lines 49-54). However, the housing is not configured to be hand held while disconnected from the medium. The medium is held by the housing and is dispensed from the housing (see figure 2).

Thus, even when combined, Takahashi and Christopher et al fail to teach the present invention as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dobbins et al (US 4,727,245), Brekka et al (US 4,377,741), and Okubo (JP 2001-266062 A) all teach hand held data scanners with printers. Swartz (US 6,533,174 B2) issued from the parent application serial number 09/176,064.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703) 305-0424. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

May 15, 2003

*Jared J. Fureman*  
Jared J. Fureman  
*Art Unit 2876*